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# State v. Roybal Appellant's Brief Dckt. 44984

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 44984
Plaintiff-Respondent,	)	
	)	ADA COUNTY NO. CR-FE-2016-6681
v.	)	
	)	
ERIC ABEL ROYBAL,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Eric Roybal contends the district court abused its discretion when it imposed his sentence in this case, and, in particular, by denying his request for a withheld judgment. Specifically, he asserts the district court did not sufficiently consider the mitigating factors in his case in reaching that decision. Therefore, this Court should remand this case for a new sentencing hearing and an order withholding judgment, or, alternatively, reduce his sentence as it deems appropriate.

## Statement of the Facts & Course of Proceedings

Pursuant to a plea agreement, Mr. Roybal entered an *Alford* plea<sup>1</sup> to the charge of possession of methamphetamine, and in exchange, the State agreed to dismiss a pending misdemeanor charge and recommend the district court impose a suspended sentence of seven years, with two years fixed.<sup>2</sup> (Tr., p.5, L.21 - p.6, L.4.) The underlying offense constituted Mr. Roybal's first felony conviction. (Presentence Investigation Report (*hereinafter*, PSI), pp.3-6, 12.) The presentence investigator also noted that Mr. Roybal, who was 55 years old at the time, only presented a moderate risk to reoffend and had a support system of friends in place. (PSI, pp.1, 11-12.) Mr. Roybal also reported that he holds an associate's degree in math and electronics. (Tr., p.15, Ls.3-5; PSI, pp.8-9.)

The GAIN-I evaluation gave rule-out diagnoses for several mental health issues, including major depression, somatic disorder, and post-traumatic stress disorder, and recommended Mr. Roybal participate in intensive outpatient treatment. (PSI, pp.16-17, 26.) The GAIN-I also included a diagnosis for alcohol abuse, but the district court concluded Mr. Roybal had not disclosed all the relevant information about his drug use during the presentence evaluations. (*See* PSI, pp.16-17; Tr., p.41, Ls.5-16.) The mental health review agreed with the GAIN-I's treatment recommendation and also recommended that Mr. Roybal receive help in managing his medications for his mental health issues. (PSI, p.30.) In fact, during his presentence incarceration, Mr. Roybal attempted to complete programs available in the jail, but

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<sup>1</sup> *North Carolina v. Alford*, 400 U.S. 25 (1970).

<sup>2</sup> On his guilty plea questionnaire, it appears Mr. Roybal mistakenly circled the answer "Yes" in response to the question about whether he was waiving his right to appeal the judgment and sentence as part of his plea. (*See* R., p.114.) No such waiver is required under the settlement offer made by the State (*see* R., pp.118-20), nor was any such waiver mentioned as part of the terms of the plea agreement at the change of plea hearing. (*See generally* Tr.)

needed to receive stronger medications before he was able to meaningfully participate in those programs. (Tr., p.31, Ls.2-7.)

At the ensuing sentencing hearing, defense counsel requested that the district court withhold judgment over Mr. Roybal for a five-year term of probation. (Tr., p.33, Ls.8-11.) Alternatively, he recommended the district court impose a unified sentence of five years, with one year fixed. (Tr., p.33, Ls.15-16.) However, the district court rejected both recommendations and imposed a unified sentence of seven years, with two years fixed, which it suspended for a seven-year term of probation. (Tr., p.37, Ls.11-24.)

Mr. Roybal filed a notice of appeal timely from the judgment of conviction. (R., pp.126, 145.)

### ISSUE

Whether the district court abused its discretion by refusing to withhold judgment and imposing an excessive sentence.

### ARGUMENT

#### The District Court Abused Its Discretion By Refusing To Withhold Judgment And Imposing An Excessive Sentence

The refusal to grant a request for withheld judgment is one within the district court's discretion. *See State v. Edghill*, 134 Idaho 218, 219 (Ct. App. 2000). The examination of whether a withheld judgment was appropriate turns on a similar analysis to the determination of whether an imposed sentence is excessive. *See State v. Geier*, 109 Idaho 963, 965-66 (Ct. App. 1985).

Where a defendant contends that the sentencing court imposed an excessively harsh sentence the appellate court will conduct an independent review of the record, giving

consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *See State v. Reinke*, 103 Idaho 771, 772 (Ct. App. 1982). Accordingly, in order to show an abuse of discretion in the district court’s sentencing decision, he must show that, in light of the governing criteria, the sentence is excessive considering any view of the facts. *State v. Jackson*, 130 Idaho 293, 294 (1997); *see State v. Hedger*, 115 Idaho 598, 600 (1989) (articulating the standard for reviewing whether the district court abused its discretion).

The protection of society is the primary objective the court should consider when imposing a sentence. *State v. Charboneau*, 124 Idaho 497, 500 (1993). The Idaho Supreme Court has indicated that rehabilitation is the first means the district court should consider to achieve that goal. *See State v. McCoy*, 94 Idaho 236, 240 (1971), *superseded on other grounds as stated in State v. Theil*, 158 Idaho 103 (2015).

The district court did not reach its decision to impose Mr. Roybal’s sentence in an exercise of reason because it did not sufficiently consider the impact of the mitigating factors on the goals of sentencing. The statutory authority to withhold a judgment (I.C. § 19-2601(3)) is designed to allow the district court “to spare the defendant, particularly a first time offender, the burden of a criminal record.” *State v. Branson*, 128 Idaho 790, 793 (1996) (internal quotation omitted). There are several collateral consequences tied specifically to a felony conviction. *See, e.g.*, IDAHO CONST. art VI, §3 (a convicted felon may not vote or hold civil office); I.C. § 18-3316 (a convicted felon cannot possess a firearm); I.C. § 32-603 (a felony conviction may be the basis for a person’s spouse to be granted a divorce); *see also* Michael Pinard, *An Integrated Perspective on the Collateral Consequences of Criminal Convictions and Reentry Issues Faced by Formerly Incarcerated Individuals*, 86 B.U. L. Rev. 623, 635 (2006) (identifying various state and federal consequences to a felony conviction which impact all levels of a person’s life).

Thus, withholding judgment when a person is convicted of their first felony serves the goal of rehabilitation, as it promotes more effective reintegration of the person into society as a productive and contributing member thereof due to the fact it allows them the opportunity to avoid these collateral consequences.

A sufficient consideration of the mitigating factors in this case demonstrates that a withheld judgment would have been appropriate in this case (as would, alternatively, a shorter underlying sentence). Mr. Roybal was 55 years old at the time of this, his first felony offense. (PSI, pp.1, 3-6, 12.) As such, he has demonstrated some ability (though not always perfectly (*see* PSI, pp.3-6)) to conform his behavior to societal expectations. He has employable skills as evidenced by his advanced degree. (*See* Tr., p.15, Ls.3-5.) Therefore, he is the type of person who, with the benefit of a withheld judgment, could reintegrate himself as a contributing member of society. Additionally, he has a support network in place (PSI, p.12), which means he is more likely to be successful in such efforts. *See State v. Kellis*, 148 Idaho 812, 817 (Ct. App. 2010).

Furthermore, as part of this case, Mr. Roybal has been diagnosed with, and begun receiving treatment for, several mental health issues. (*See* PSI, pp.9-10, 16-17; Tr., p.31, Ls.2-7.) He reported receiving some benefit from past mental health counseling. (PSI, p.10.) And, as defense counsel pointed out, once Mr. Roybal began receiving appropriate medication to control the symptoms of those conditions, he was able to begin meaningfully participating in available treatment programs in the jail. (Tr., p.31, Ls.2-7.) True, as the district court indicated, there were likely additional issues, particularly in regard to drug use, that would need to be dealt with in the course of Mr. Roybal's rehabilitation efforts (*see* Tr., p.41, Ls.5-16), but the fact that Mr. Roybal has shown some ability to meaningfully participate in rehabilitative programs while receiving appropriate medication further reveals that the district court should have given him the

opportunity to avoid the collateral consequences of a felony conviction via a withheld judgment as he continues those efforts. It did, after all, conclude Mr. Roybal could effectively pursue continued rehabilitation opportunities in the community. (*See* Tr., p.37, Ls.11-24) (suspending Mr. Roybal's sentence for a term of probation).)

Given a sufficient consideration of all the facts in the record, including all the mitigating factors, the district court's sentencing decisions, particularly its decision to not withhold judgment, are revealed to be abuses of its discretion.

### CONCLUSION

Mr. Roybal respectfully requests that this Court remand his case to the district court for a new sentencing hearing and an order withholding judgment. Alternatively, he requests that this Court reduce his sentence as it deems appropriate.

DATED this 24<sup>th</sup> day of July, 2017.

\_\_\_\_\_/s/\_\_\_\_\_  
BRIAN R. DICKSON  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 24<sup>th</sup> day of July, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing a copy thereof to be placed in the U.S. Mail, addressed to:

ERIC ABEL ROYBAL  
INMATE #122911  
C/O ADA COUNTY SHERIFF'S OFFICE  
7200 BARRISTER  
BOISE ID 83704

SAMUEL A HOAGLAND  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

DAVID A STEWART  
ADA COUNTY PUBLIC DEFENDER  
E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

BRD/eas